

COLLOQUIES

Manifest Best Interests Colloquy

Introductory remarks.

- Will everyone please identify themselves for the record?
- Will all witnesses please raise their right hands and be sworn?
- Before we proceed with manifest best interest testimony, is there anything the department wishes to present to the court?
- Do the GAL, the parents, or the child have anything they wish to present?
- Are there any other matters that need to be addressed before the court hears testimony on manifest best interests?

Testimony and evidence.

- The department may call its first witness.
- [Hear all of the department's witnesses and receive all of the department's evidence.]
- Does the department have any additional evidence it wishes to present?
- The GAL program may call its first witness.
- [Hear all of the GAL's witnesses and receive all of the GAL's evidence.]
- Does the GAL program have any additional evidence it wishes to present?
- The mother may call her first witness.
- [Hear all of the mother's witnesses and receive all of the mother's evidence.]
- Does the mother have any additional evidence she wishes to present?
- The father, Mr. _____, may call his first witness.
- [Hear all of the Mr. _____'s witnesses and receive all of Mr. _____'s evidence.]
- [Repeat for each of the fathers in the case.]
- [If the child is represented by an attorney ad litem]The child may now call witnesses.
- [If applicable, hear all of the child's witnesses and receive all of the child's evidence.]
- [If applicable]Does the child have any additional evidence to present?
- Do any of the parties have any rebuttal or other evidence to present?

Argument.

- With no further evidence to be presented, the court will now hear argument from counsel.
- Counsel for the department may proceed.
- [Hear argument by the department.]

- Counsel for the GAL program may proceed.
- [Hear argument by the GAL program.]
- Counsel for the mother may proceed.
- [Hear argument by the mother.]
- Counsel for the father, Mr. _____ may proceed.
- [Hear argument by the father, Mr. _____.]
- [Repeat for each of the fathers in the case.]
- [If applicable]Counsel for the child may proceed.
- [Hear argument by the child.]
- Is there any further argument to be presented to the court?

Manifest best interests.

- There being no further evidence or argument, the court is prepared to make findings on manifest best interests.
- The court has considered and evaluated all relevant factors, including the statutory factors set forth in section 39.810, Florida Statutes.
- The court finds, by clear and convincing evidence, as follows:
 - The court has received evidence as to any suitable permanency custody arrangement with a relative of the child. The court finds that _____. The court has not given greater consideration to the availability of a nonadoptive placement with a relative than any other factor weighing on the manifest best interest of the child. Nor has the court considered it as a ground to deny termination of parental rights.
 - The court has received evidence as to the ability and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child. The court finds that _____.
 - The court has received evidence as to the capacity of the parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home. The court finds that _____.
 - The court has received evidence as to the present mental and physical health needs of the child to the extent that such future needs can be ascertained based on the present condition of the child. The court finds that _____.
 - The court has received evidence as to the love, affection, and other emotional ties existing between the child and the child's parents, siblings, and other relatives,

and the degree of harm to the child that would arise from the termination of parental rights and duties. The court finds that _____.

- The court has received evidence as to the likelihood of this child, age _____, remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child. The court finds that _____.
- The court has received evidence as to the child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties. The court finds that _____.
- The court has received evidence as to the length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity. The court finds that _____.
- The court has received evidence as to the depth of the relationship existing between the child and the present custodian. The court finds that _____.
- The court has received evidence as to the reasonable preferences and wishes of the child and [deems/does not deem] the child to be of sufficient intelligence, understanding, and experience to express a preference. The court finds that _____.
- The court has received evidence as to the recommendations for the child provided by the child's guardian ad litem or legal representative. The court finds that _____.
- In addition to the statutory factors set forth in section 39.810, the court has also received evidence as to additional, non-statutory factors and finds that _____.

- Based on these findings, the court finds that it is in the manifest best interests to terminate parental rights.

Termination of parental rights.

- The court has already found, by clear and convincing evidence, the following grounds to terminate the parental rights of the mother: _____.
- The court has already found, by clear and convincing evidence, the following grounds to terminate the parental rights of the father, Mr. _____:
_____.
- [Repeat for each of the fathers in the case.]
- The court finds that reunification of the child with the parent poses a substantial risk of significant harm to the child.

- The court finds that termination of parental rights is the least restrictive means of protecting the child from harm.

- [CHOOSE EITHER “A” OR “B” ALONG WITH ALL APPLICABLE CIRCUMSTANCES BELOW]

[A: The court terminates the parental rights of one parent, _____, without terminating the parental rights of the other parent, _____, due to the following circumstances pursuant to section 39.811(6), Florida Statutes:]

[B: Even though the court is not currently terminating the parental rights of one parent without terminating the parental rights of the other parent, pursuant to 39.811(6), Florida Statutes and J.T. v. Department of Children and Families, 908 So. 2d 568 (Fla. 2nd DCA 2005), the court finds the following circumstances to be applicable in the event that termination of only one parent’s rights is reversed on appeal.]

- The child has only one surviving parent.
 - The identity of a prospective parent has been established as unknown after sworn testimony.
 - The parent whose rights are being terminated became a parent through a single-parent adoption.
 - The protection of the child demands termination of the rights of a single parent.
 - The parent whose rights are being terminated meets the criteria specified in section 39.806(1)(c), (d), (f), (g), (h), (i), (j), (k), (l), (m), or (n). [state specific criteria]
- The child is placed in the permanent care and custody of the department for subsequent adoption.
 - Do any of the parties request that the court make any further findings of fact on the record?

Visitation.

- [The court finds that continued visitation by the grandparents is not in the best interests of the child or would interfere with the permanency goal for the child.]
- [The following parents, siblings, or relatives of the parent whose rights are being terminated shall be allowed the communication or contact with the child because it is in the child’s best interests. Such communication or contact will be set forth in this court’s written order and will be reviewed on the motion of any party or an identified prospective adoptive parent. When the child is placed for adoption, the nature of frequency of the communication or contact will be reviewed by the court at the time the child is placed for adoption.]
- [The parents shall be permitted to have one “goodbye” visit with the child to occur as follows: _____.]

Additional issues.

- The parents have 30 days from the entry of the termination of parental rights judgment to appeal.
- The parents for whom counsel was appointed have the right to file a motion in the circuit court alleging that appointed counsel provided constitutionally ineffective assistance.
- [The court has previously found the parents to be indigent and eligible for appointed trial counsel. The court finds the parents to be indigent and eligible for appointed appellate counsel. However, the parents do not have the right to appointed counsel to file a motion alleging that trial counsel provided constitutionally ineffective assistance.]

Next hearings.

- This matter shall be heard on [date within 30 days] to amend the case plan and identify a permanency goal.
- The next judicial review hearing is [already] scheduled for _____.
- Court is adjourned.